

Frequently Asked Questions From LGBTQ+ Prospective Foster and Adoptive Parents

Many foster care and adoption agencies, both public and private, welcome the lesbian, gay, bisexual, transgender, and questioning (LGBTQ+)¹ community as a valuable resource for infants, children, and youth in need of permanent families. Still, LGBTQ+ prospective foster and adoptive parents continue to face significant challenges related to adoption.

Your experiences may be based on where you live; current local, State, and national events; the type of adoption you are interested in; biases within an agency; or whether you adopt as a single person or as part of a couple.

This factsheet is designed to answer initial questions you may have as a prospective foster or adoptive parent and better inform the first stage of your journey.

¹ LGBTQ+ includes individuals who identify as Two-Spirit: This term refers to a person of a culturally and spiritually distinct gender exclusively recognized by Native American/Alaska Native nations. If you or your partner are Tribal members and/or part of the local Native community, you can ensure proper placement of American Indian/Alaska Native children by helping placement agencies, courts, and States follow the Indian Child Welfare Act of 1978.

WHAT'S INSIDE

How do I find an affirming agency?

What States allow LGBTQ+ individuals or same-gender or gender-diverse couples to foster or adopt?

Should I disclose my sexual orientation or transgender identity? If so, when?

Is intercountry adoption realistic for prospective LGBTQ+ parents?

What should I do if I think an agency is discriminating or being unfair?

How do I find support during the waiting process?

What do experienced LGBTQ+ parents have to offer as advice?

Conclusion

Q: HOW DO I FIND AN AFFIRMING AGENCY?

A: Finding an agency with policies that align the needs of individual children with the capabilities of prospective parents will help ensure an affirming experience for you and your family. Consider asking other LGBTQ+ parents or caregivers in your community about their experiences; they may have agency recommendations or other advice to share. You can also search for LGBTQ+ parenting groups or contact your local LGBTQ+ community center.

The [All Children – All Families](#) project of the [Human Rights Campaign \(HRC\) Foundation](#) maintains a [list of adoption agencies](#) that support the LGBTQ+ community. Child Welfare Information Gateway's [National Foster Care and Adoption Directory](#) provides information on support groups for prospective resource parents. While this list is not solely for LGBTQ+ families, it may help you become familiar with resources available in your area. Information Gateway's [Advocacy and Support Organizations for Lesbian, Gay, Bisexual, Transgender, and Questioning \(LGBTQ\) Communities](#) webpage also provides a list of national LGBTQ+ advocacy and support organizations.

You can also conduct your own online research by searching public and private agency websites for images and language designed for the LGBTQ+ community or for client nondiscrimination statements. You may call

an agency directly to ask about its policies or request an in-person meeting to learn about its success rate with LGBTQ+ adoptive and foster families. If you live in a State with laws that restrict LGBTQ+ foster and adoptive parents, ask how the agency navigates those challenges. Be sure that the agency can verify that it has placed children with LGBTQ+ families and ask to speak to some of its clients.

Potential questions to explore with agencies include the following:

- What specific affirming or inclusion policies and activities do you have?
- How many LGBTQ+ resource families are there in your agency? Are there any LGBTQ+ families waiting for placement now? Can we speak with them?
- How many LGBTQ+ families have your agency worked with for foster care or adoption? What percentage of total families does that represent, and how long do LGBTQ+ prospective resource and adoptive families usually wait to be matched with a child or children?
- How does the agency represent LGBTQ+ families to expectant parents considering adoption for their infants?
- Does your agency have an intercountry adoption program? If so, does it work with LGBTQ+ families and address barriers related to regulations and laws in other countries?

Q: WHAT STATES ALLOW LGBTQ+ INDIVIDUALS OR SAME-GENDER OR GENDER-DIVERSE COUPLES TO FOSTER OR ADOPT?

A: While the Supreme Court's historic June 2015 ruling in *Obergefell v. Hodges*² brought marriage equality to all 50 States, it did not specifically address fostering or adoption. Laws pertaining to adoption and foster care are State specific, and most are vague. State agencies that recognize the valuable resource LGBTQ+ parents bring to foster children and the role they can play in changing the lives of thousands of children waiting for foster homes, recruit LGBTQ people considering this option. Information Gateway's [Who May Adopt, Be Adopted, or Place a Child for Adoption?](#) summarizes State laws regarding eligibility for becoming an adoptive parent, including adopting a child from foster care.

For adoption explicitly, many States' statutes include exclusive language stating that a "husband and wife" must petition jointly.³ Currently, it is unclear whether this language can apply to same-gender or gender-diverse couples who are legally married. Additionally, most State laws are largely silent on the issue of adoption by single LGBTQ+ persons. In approximately 19 States, the District of Columbia, and the U.S. Virgin Islands, the use of gender-neutral language, including "spouses" or "married couples," serves to allow adoption by same-gender or gender-diverse couples.⁴ As of August 2015, only Mississippi specifically prohibits adoption by couples of the same gender. However, in March 2016,

a U.S. District Court judge declared this ban unconstitutional, citing the Supreme Court's 2015 marriage equality ruling. That said, the State's law still includes language prohibiting adoption by same-gender couples by referring to the right of "religious freedom."

Regardless of whether you are married or in a civil union or domestic partnership, it is widely recommended that nonbiological and nonadoptive parents obtain an adoption (second-parent or stepparent adoption included), even if the second parent is named on your child's birth certificate. This provides the child with necessary legal protection and typically also grants adoptive parents the same rights as biological parents in custody and visitation matters.

Before you begin your adoption process, research the laws in your State or jurisdiction so you know your rights and whether there are legal roadblocks to maneuver. To help get you started, Information Gateway provides [statutes by State](#), and the publications [Who May Adopt, Be Adopted, or Place a Child for Adoption?](#) and [Home Study Requirements for Prospective Foster Parents](#).

For information about relationship recognition in your State, see the National Center for Lesbian Rights (NCLR) publication, [Marriage, Domestic Partnerships, and Civil Unions: An Overview of Relationship Recognition for Same-Sex Couples Within the United States](#). You may also consult your [State Equality Index](#) or a national LGBTQ+ advocacy center, such as the [HRC Foundation](#) or the [NCLR](#).

² See the complete [Supreme Court ruling](#).

³ [Connecticut § 45a-726a](#), which allowed the commissioner of human services to consider the sexual orientation of the prospective adoptive parent, notwithstanding provisions in the State's laws prohibiting discrimination based on sexual orientation, was repealed July 1, 2013. [Florida § 63.042\(3\)](#), which prohibited adoption by a gay or lesbian person, was deleted from the statute June 11, 2015.

⁴ California (by spouse or domestic partner), Colorado, Connecticut, Georgia, Idaho, Illinois (spouses and civil union partners), Louisiana, Maryland, Minnesota, Missouri, Nevada, New Jersey, New Mexico, New York (spouses and unmarried intimate partners), North Carolina, South Dakota, Tennessee, Utah, and Vermont.

Q: SHOULD I DISCLOSE MY SEXUAL ORIENTATION OR TRANSGENDER IDENTITY? IF SO, WHEN?

A: Whether to disclose your sexual orientation, gender identity, and expression (also known as SOGIE) may be one of your most significant questions, particularly if you live in a State with laws that do not protect LGBTQ+ persons from discrimination or if you are not sure of your chosen agency's policy. Prospective foster or adoptive LGBTQ+ parents and other caregivers often worry that being open about their LGBTQ+ identity will lead agencies to disqualify them as parents or result in greater scrutiny as applicants. Additionally, LGBTQ+ individuals often find themselves explaining their identities when other applicants do not have to. As you start this journey, look for agencies with a nondiscrimination policy that is inclusive of all LGBTQ+ identities and practices and policies that coincide. Ask about the agency's privacy policy and understand when your information may need to be shared with other professionals. The foster and adoptive parent licensing process requires asking questions about personal information, which likely will require a disclosure of gender identity and sexual orientation. In an inclusive and welcoming agency, all applicants will be asked about their gender identity and sexual orientation as just one part of a full and honest picture of you as an individual with strengths and capacities to parent children in foster care. Many agencies target recruitment of gender-diverse and LGBTQ+ individuals as one way to address the need for welcoming and affirming placements for young people of diverse identities.

For unmarried, same-gender couples in States where adoption by two unmarried partners (joint adoption) is not allowed, you may need to identify one person to be the primary applicant and one to be the "other member of household." Ideally, for couples preparing to adopt and those interested in foster care only, the agency—and the home study social worker in particular—will be aware of your LGBTQ+ identity and/or relationship status, so they can help you navigate potential challenges in the jurisdiction or State where you reside. The goal of the home study is for the agency to learn about you as an individual and as a couple, if applicable. It will assess the strengths and capacities you would bring to parenting a child or children and help prepare you for the transition to parenthood. For more information on the home study process, see Information Gateway's [The Adoption Home Study Process](#).

If there is a compelling reason why you are not able to disclose your LGBTQ+ identity—for example, you live in a State that restricts fostering or adoption by LGBTQ+ couples—consult with an LGBTQ+ family law attorney or LGBTQ+ advocacy organization before moving forward. The HRC Foundation maintains [State Scorecards](#) detailing the status of laws and policies affecting the LGBTQ+ community in each State. Pro-equality laws tracked include parental presumption for same-gender couples and foster care nondiscrimination. You can find legal help on the Movement Advancement Project's [Foster and Adoption Laws](#) webpage or by searching the internet for local resources. There may be ways to resolve difficult scenarios, and it is best to have as many supportive connections and as much information as possible.

Q: IS INTERCOUNTRY ADOPTION REALISTIC FOR PROSPECTIVE LGBTQ+ PARENTS?

A: It can be difficult for any individual or couple to pursue an intercountry adoption, regardless of your sexual orientation or gender expression. In fact, intercountry adoption has declined dramatically since the early part of the century. This decline is caused by a [variety of factors](#), including countries' increased focus on domestic adoption and changes to their policies and processes regarding intercountry adoption. Same-gender couples will likely face additional challenges, as many countries that remain open for intercountry adoptions have laws, policies, or cultural norms that create barriers to adoption for LGBTQ+ couples. Agencies may be cautious about representing LGBTQ+ couples for intercountry adoption based on the realities of these regulations, although this may not necessarily reflect an agency's overall view of adoption by LGBTQ+ adults. For more information about intercountry adoption in general, see [Intercountry Adoption: What Do I Need to Know?](#) For information on adopting children from a specific country, you can visit the [U.S. State Department's database](#) of written laws and policies for each country from which U.S. citizens are able to adopt.

Q: WHAT SHOULD I DO IF I THINK AN AGENCY IS DISCRIMINATING OR BEING UNFAIR?

A: If you feel, at any time, that a home study social worker or a particular agency staff person is asking inappropriate questions, is uncomfortable with you, or is being biased in the assessment, you should express your concerns with that person first and then their supervisor. Advocacy up the chain of command is a right of the client. If involving a supervisor would present additional concerns, however, or you continue to experience complications after speaking with a supervisor, you may elevate your grievance to the attention of the county or district agency director or State ombudsman.⁵

For more on this subject, Information Gateway offers the factsheet for families [From Complaint to Resolution: Understanding the Child Welfare Grievance Process](#).

⁵ Information Gateway maintains a list of [contact information](#) for local and county child welfare agencies.

Q: HOW DO I FIND SUPPORT DURING THE WAITING PROCESS?

A: Many agencies, both public and private, offer support groups for families waiting to foster or adopt. Be sure to ask your social worker for a referral to those groups. Find out if other LGBTQ+ families are in the group and if the facilitator is LGBTQ+ competent and affirming. Numerous LGBTQ+ parent support groups exist across the country and can help you connect with other adoptive or resource families. It is helpful to think of the waiting period as an opportunity to start networking with other LGBTQ+ families who can become a support network for you as you transition to parenthood. If you are not able to find a group in your local community or through your local agency, you can explore online discussion forums for waiting families in general and for LGBTQ+ families specifically. You might even want to consider starting a group if one does not currently exist.

[AdoptUSKids](#) provides free assistance to LGBTQ+ families who are seeking to foster or adopt children from foster care. To talk with an LGBTQ+ foster care and adoption specialist, you can also call AdoptUSKids toll free at 888.200.4005 or email info@adoptuskids.org.

[The National Foster Parent Association's Committee on LGBTQ+ Families and Youth](#) identifies resources, studies, research, and information on LGBTQ+ issues and provides advocacy and support to National Foster Parent Association members and organizations as they support youth and families in their service areas.

Q: WHAT DO EXPERIENCED LGBTQ+ PARENTS HAVE TO OFFER AS ADVICE?

A: Most LGBTQ+ parents say that they benefit from being part of a larger community of LGBTQ+ parents whose children can see other families like theirs, especially as they get older. LGBTQ+ adoptive and foster parents often engage in networks that overlap, some of which are linked to the adoption or foster care community and some to the LGBTQ+ community. Experienced parents also recommend that you research the LGBTQ+ policies of your local child care facilities or schools and identify pediatricians and other service providers who are both affirming and a good fit for your family's needs. Finally, other LGBTQ+ parents recommend that you think about how you will talk to your family, friends, neighbors, teachers, and others about your adoptive or foster family and how you will answer challenging questions that may arise.

LGBTQ+ individuals and couples interested in foster care may find more information and resources in Information Gateway's [Supporting LGBTQ+ Youth: A Guide for Foster Parents](#).

In collaboration with the Children's Bureau, the Federal Government recently established the National Quality Improvement Center on Tailored Services, Placement Stability, and Permanency for Lesbian, Gay, Bisexual, Transgender, Questioning, and Two-Spirit (QIC-LGBTQ2S) Children and Youth in Foster Care.

The center has developed and integrated effective programs for children and youth in foster care with diverse SOGIE. The QIC-LGBTQ2S works to improve the day-to-day experiences of children and youth in foster care by raising the awareness of child welfare social workers across the country regarding the concerns of the LGBTQ+ community and by using innovative ways to meet the needs of LGBTQ+ children and youth. Read more about this important Children's Bureau-funded work on the QIC-LGBTQ2S [website](#).

CONCLUSION

All qualified individuals and couples who can provide a loving, nurturing home for a child should be encouraged to do so and to receive support along the way. Finding an agency that affirms you and your family's commitment to foster or adopt a child will go far to ensure the successful experience you are looking for. The more information you gather from online resources and suggestions from people who have taken this journey, the more confident you will feel about making the process work for you and your family. You can take an active role with the agency and team working with you and your family. Share with them Information Gateway's [Working With LGBTQ+ Families in Foster Care and Adoption](#).

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